

AMENDMENT TO THE DRAWINGS

In the drawings, please delete the existing Figure 22 scanned into the application papers by the Office and replace with the enclosed Figure 22 labeled "Replacement Sheet".

RESPONSE

I. Status of the Amendments

Figure 22, scanned into the application papers by the Office, has been replaced with Figure 22 on the enclosed Replacement Sheet.

II. Support for the Amendment

Figure 22 on the enclosed Replacement Sheet does not include any changes with respect to Figure 22 submitted when the application was filed.

When original Figure 22 was scanned into the system by the Office, part of the "C" in the word "Control" was not captured in the scan. Figure 22 on the Replacement Sheet replaces the Office's incomplete scan of Figure 22. This is also shown on the enclosed "Annotated Sheet".

III. Response to the Notice

The Notice alleges that Figure 22 "has cut off data". Figure 22 as originally filed was complete and any "cut off data" is a result of an error on the part of the Office in scanning Figure 22 into the system.

As is clear from the present record, this application is one of a family of related applications that have the same drawings. Figure 22 was scanned correctly in all related applications, some of which have already issued with a complete version of Figure 22. For example, see U.S. Patent Nos. 7,247,303; 7,378,386 and 7,384,909.

Nonetheless, Applicants presently submit a replacement Figure 22 in which the word "Control" is complete. The requirements of the Notice are thus satisfied.

IV. Applicants' Comments Regarding PTA

On November 14, 2008, a Notice of Allowance and Fee(s) Due was mailed for the present application, which indicated a Patent Term Adjustment (PTA) of 133 days. Applicants paid the issue fee due on November 24, 2008.

According to 37 C.F.R. § 1.702(a)(4), the Office is required to issue the patent not later than four months after the date on which the issue fee was paid, *i.e.*, March 24, 2009. As to 35 U.S.C. § 154(b)(1)(iv), the error on the part of the Office in not scanning a complete version of Figure 22 should not be held to Applicants' detriment, particularly as a complete version of Figure 22 was submitted on July 15, 2003 and Applicants were not notified of the Office's scanning mistake until January 23, 2009, *i.e.*, over five and a half years later.

V. Dates of the Notice

The Notice at page 1 of 2 indicates a "Date Mailed" of January 21, 2009. However, the Notice at the cover page indicates a "Mail Date" of January 23, 2009. The January 23, 2009 mail date is believed to control. Nonetheless, the present response is submitted within two months of the earliest date and is clearly timely.

VI. Conclusions

No fees should be required in connection herewith. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the present materials, any such small entity fees should be deducted from Applicants' representatives' deposit account, Peregrine Pharmaceuticals, Inc. Deposit Account No. 50-3493/4001.003000.

The present paper and enclosed replacement sheet of Figure 22 constitute a full and complete response to the Notice. Should the Office have any questions or comments, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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Date: February 20, 2009